IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.5113 OF 2004

Smt. Kanta Arun Sarjerao ..Petitioner

Vs.

State of Maharashtra & Ors. ..Respondents

Mr.R.K.Mendadkar with Ms. Helen Koli Mandlik for Petitionerf
Mr. C.R.Sonawane, A.G.P. for respondent no.1,4 & 5.
Mr. M.A.Utgikar for Respondent nos.2 & 3

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 22ND FEBRUARY, 2005.

P.C.

. Rule. Heard forthwith.

. The widow of late Arun Sarjerao who died on 16th August, 2001 while in the employment of the school run by Respondent No.2 had applied for appointment on compassionate ground. The Respondent No.1 State of Maharashtra has issued directions in the matter of appointment on compassionate basis. In the affidavit of Krishna Tukaram Dhale dated 29th September, 2004 it is set out that it is incumbent upon the Management to appoint the Petitioner on compassionate ground and that they have already directed the Management to consider the case on compassionate ground. On behalf of the Management their learned Counsel points out that presently

there is temporary vacancy of peon, consequent to the promotion of the peon to the post of LDC. The Respondent Department is yet to give approval to the said promotion. The fact however remains that there is a vacancy may be temporary and which is likely to be permanent. Learned Counsel however, points out that there is no right that the person should be appointed on compassionate ground and for that purpose places reliance on the judgment of the Apex Court in the case of Punjab National Bank Vs. Ashwini Kumar Taneja, Supreme Court, 2005, Mh.L.J., 502 . On perusal of the said judgment the Apex Court noted that such a claim cannot be upheld on the touchstone of Article 14 and 16. However, such claim is considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service. That is the reason why Authorities must frame rules and regulations or to issue such administrative orders which can stand the test of Articles 14 and 16.

. In the instant case Respondent State of Maharashtra has issued administrative directions. As the recognised aided school, the Management of the school is bound to follow such instructions. Considering the above the Petition can be disposed of by issuing following directions:

. The Management of Respondent no.2 is directed to consider the case of the Petitioner for appointment on compassionate basis on the subsisting post on temporary basis on compassionate grounds and on the person promoted to LDC his promotion being approved by the Government Authorities, to consider the case of the Petitioner for regular appointment.

. On behalf of Management the learned Counsel makes a statement that they will consider the application of the petitioner which is pending. We record the statement. The decision to be taken within four weeks from today.

. In the event management rejects the application the Respondent Authorities, are directed to take steps in law considering that the recognised and aided schools are bound to follow the Resolutions issued by the State of Maharashtra.

. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)